

To the

The F

Most

perty ly
superfic
prompt
of the
Memori
of acts
peals w
as a Bri

In
Ladies
which w
remaini
rialist
valuable
and for
which h

Yo
from th
building
the hill
L'Ance

Th
land acc
the Mil
thereon
the way
Militar
his app
receive
his rep

Th
from de
to his a
Counci
Chief o
proper

Th
Sir Ric
Colbor
mined
tion, m
sustain

T
" of hi
" action

T
ing tha
had no
be pro
your M
" give

To the Right Honorable the Master General and the Board of Ordnance.

The Petition of WILLIAM LAMPSON, of the City of Quebec, in the Province of Lower Canada, Ship-BUILDER and Merchant.

MOST HUMBLY SHEWETH:—

That, your Memorialist has unlawfully and unjustly been disseized of a certain property lying and being without the St. Lewis Gate, in the vicinity of this City, and containing a superficies of about 28 acres, under circumstances of great aggravation, which call for the prompt interposition of your Honorable Board; the said property so seized being in possession of the Ordnance Department in this Province, a subordinate of your Honorable Board. Your Memorialist will recount the circumstances attending one of the most extraordinary and unheard of acts of power which has ever been exercised in any dependancy of the Empire, and he appeals with confidence to your Honorable Board for that protection against aggression, which, as a British subject, he has a right to demand.

In the month of March, 1839, your Memorialist acquired, by purchase, from the Religious Ladies of the Ursuline Convent at Quebec, the property in question, about one-third of which was then held by the Crown, under leases expiring respectively, in 1845 and 1852, the remaining two-thirds, your Memorialist entered into immediate possession of. Your Memorialist acquired the land in question, with a view to give value to an extensive and most valuable beach and wharf property, which he had recently bought below the land so acquired, and for which beach and wharf property he had paid a sum of six thousand pounds, and upon which he has further laid out in improvements upwards of five thousand pounds more.

Your Memorialist saw the great value that would accrue from the purchase made by him from the Nuns, as it would enable him to form a Suburb in the immediate vicinity of the ship building and lumber operations on the River St. Lawrence, near this city; house rent below the hill being at an excessive high rate, and almost every inch of ground along Diamond, L'Ance des Mères and Wolfe's Coves being built upon.

That your Memorialist in consulting with a practical gentleman for the laying out of the land acquired by him from the Nuns, as a Suburb, was advised to offer to enter into treaty with the Military Government for the sale of the property previous to commencing improvements thereon, in case it should be attempted by the authorities to throw impediments of any sort in the way of the same. That in consequence, the Agent of your Memorialist addressed the Military Secretary in the month of April, 1839, upon the subject, and receiving no answer to his application, he again, on the 20th May following, communicated with that officer, and received for answer, that the matter had been referred to the Commanding Royal Engineer for his report, and was under consideration.

That your Memorialist, although most anxious to commence his improvements, awaited from day to day an answer to the proposition made by him without receiving the same, when to his astonishment he observed in the Official Gazette of the 26th December last, an Order in Council, issued by command of His Excellency Sir Richard Downes Jackson, Commander-in-Chief of the Forces, and then administering the Government of this Province, appropriating the property of your Memorialist to the use of the Crown for purposes of Military defence.

That your Memorialist alarmed at such an invasion of his rights, lost no time in addressing Sir Richard D. Jackson, praying that the terms of an anterior Order in Council of Sir John Colborne's, referred to in that promulgated by Sir Richard D. Jackson, whereby it was determined that the value of the property of your Memorialist should be determined by arbitration, might be carried out with a view to his receiving compensation for the injury he had sustained.

That your Memorialist received for answer, that his application respecting "the valuation of his property recently required for purposes of Military defence, had been referred for action to the Military Secretary."

That your Memorialist addressed the Military Secretary, on the 4th January last, informing that Officer, that in compliance with the Order in Council of the 2nd September, 1839, he had nominated Mr. William Henderson, as his Expert, and requested that the valuation should be proceeded with at as early a day as might be found expedient. To this communication your Memorialist received for reply on the 11th of the same month, that "directions had been given by the Commander of the Forces to the respective Officers of Ordnance, at Head



"Quarters, to appoint an Expert on the part of the Crown, with as little delay as possible to proceed to the valuation."

That finding that the directions given to the respective Officers of Ordnance, as stated in the above communication, from the Military Secretary, were not carried out, your Memorialist on the 4th February, complained to the respective Officers of Ordnance at Quebec, of the delay in doing so, when on the following day he received a reply informing him "that Captain Whitmore, of the Royal Engineers, had been appointed as the arbitrator on the part of the Crown."

It is right your Memorialist should observe that Captain Whitmore, himself, one of the respective Officers of Ordnance at Quebec, is one of the signers of the letter intimating his appointment as arbitrator to your Memorialist.

Your Memorialist having, however, a reliance on the high character and honor of that gentleman and being unwilling to throw any obstacle whatever in the way of bringing the arbitration to a close, refrained from raising any opposition to the appointment of one of the Members of the Board of Ordnance as such arbitrator.

That your Memorialist on the 7th February caused the draft of a Bond of Arbitration to be prepared by the Honorable Louis Panet, N. P., and an Executive Councillor, containing the ordinary provisions, as between individual and individual, and handed the same to Captain Whitmore, with a view to its being submitted to the respective Officers of Ordnance for approval or alteration, as might be judged fit.

That your Memorialist was again subjected to unnecessary and vexatious delay by the Military authorities, and being unable to obtain any satisfactory reason from Captain Whitmore as to the cause thereof, he addressed the respective Officers of Ordnance at Montreal, on the 9th March, complaining of the delay in carrying out the arbitration, and received for answer, on the 17th of that month, "that the subject had been referred to the Commander of the Forces on the 17th ultimo, and as soon as His Excellency's decision should be received, the business would be proceeded with immediately."

That driven almost to despair by the procrastination of the Military authorities, your Memorialist, on the 16th March, addressed the Military Secretary, transmitting copy of the above referred to letter of the respective Officers, and prayed that the arbitration, as promised, might forthwith be proceeded with.

That in reply to this application, the Military Secretary, in a letter of the 18th March, informed your Memorialist, "that in consequence of the apparent extravagance of some of the propositions made on your part, it became necessary to refer the case to the Attorney General, whose opinion has been transmitted to the respective Officers of Ordnance, with directions to cause every circumspection to be observed in the negotiations."

Your Memorialist was, and still is, at a loss to conjecture what the Military Secretary could have meant by his gratuitously accusing your Memorialist of having made extravagant propositions. Your Memorialist being unaware of having offered any proposition whatever, other than having submitted the draft of an ordinary arbitration bond for the consideration of the respective Officers of Ordnance.

That, on the 21st March, Captain Whitmore transmitted to your Memorialist the copy of an arbitration bond, prepared by the Attorney General, which it was proposed to your Memorialist he should enter into, conjointly, with the respective Officers of Ordnance, and your Memorialist already smarting under the weight of power and injustice was forced, of necessity, to acquiesce therein, and intimated his readiness to sign the same.

That after a further vexatious delay on the part of the Military authorities, the arbitration bond was duly executed on the 6th April last, before the Honorable Louis Panet, by your Memorialist and Richard Penn, Esquire, Ordnance Storekeeper at Quebec, on the part of the respective Officers at Montreal.

That the two Experts, in conformity with the terms of the Bond, named a third Expert or Umpire, Noah Freer, Esquire; and after mature deliberation and a thorough investigation on the spot, an award was made on the 29th April last, in writing, by two of the three Experts, (the Crown Expert dissenting therefrom, and only adjudging about £8,000,) of £15,000 to your Memorialist as an indemnity for the injury he had sustained in being deprived of his property.

That a copy of the award was duly furnished to the respective Officers of Ordnance at Montreal, and your Memorialist had indulged a well grounded expectation that no further delay would take place in bringing the matter to a close, and in handing over to him the indemnity awarded, and your Memorialist, on the 4th May, addressed the respective Officers of Ordnance at Montreal, craving the payment of the said award.

That, in answer to this application, your Memorialist was referred to the Military Secretary, and having addressed that Officer, on the 9th May, praying a liquidation of the award, he

received for
of his letter
"engaged
"General
"had been

That d
Military au
vince again
what coun
to—his pro
moment vai
the Military
are unjust
between yo
he solicits a
Memorialis
British sub
and other d

Your M
the Statute
"under La
"power or
"to exami
"the King

Your L
to the Parli
subordinate
attention, w
property of
the injury s

In con
conduct and
the Officers
charges ma

Quebec

received for answer, a communication, dated the 12th of that month, acknowledging the receipt of his letter, and intimating "that the reports of the several gentlemen who had recently been engaged in the investigation in question, are now before His Excellency the Governor General;" and further, "that the Commander of the Forces was not aware that any award had been made to you on the occasion to which you allude."

That disheartened by the ungenerous and intimidated by the high-handed conduct of the Military authorities in this matter, your Memorialist who has no recourse in law in this Province against the Crown or those of its servants, acting under its immediate authority, knew not what course to adopt—referred from one department to another—every subterfuge resorted to—his property forcibly seized—and being denied any possession therein, he has up to this moment vainly sought for relief. The last communication received by your Memorialist from the Military Secretary persists in imputing demands to your Memorialist as ill-founded as they are unjust, and it will be seen from the copies of the whole correspondence which has been had between your Memorialist and the authorities, which your Memorialist transmits and of which he solicits a careful perusal,—how little reason exists for casting reflections upon the course your Memorialist has taken throughout the whole pendency of this, to him, and in fact to every British subject, important matter. Your Memorialist also transmits copies of the bond, award and other documents bearing upon his case, ~~as per the schedule~~.

Your Memorialist need not remind you that under the provisions of the Great Charter and the Statutes of the Realm, "no man's land shall be seized into the Queen's hands, excepting under Law," for "that neither Her Majesty nor Her Privy Council have any jurisdiction, power or authority by bill, petition, articles, libel or by any other arbitrary way whatsoever, to examine or draw into question, determine or dispose of the lands or goods of any subject of the Kingdom."

Your Memorialist asks justice at your hands in this matter, without obliging him to appeal to the Parliament of Great Britain for redress, against the crying and oppressive acts of your subordinate Board in this Colony, and that you will give his case your immediate and serious attention, with a view to liquidate the award made in his favor, or to return back to him the property of which he has been arbitrarily and wrongfully diseized, with such compensation for the injury sustained as is equitable.

In conclusion, your Memorialist having so directly had cause to complain of the vexatious conduct and the delay interposed by the Military authorities, has deemed it right to furnish the Officers complained of with a copy of this Memorial, in order that they may be aware of the charges made against them.

WILLIAM LAMPSON.

Quebec, August , 1840.

APPENDIX.

Quebec, 12th April, 1839.

SIR,

Mr. Lampson and others having purchased, from the Nuns of the Ursulines, an extensive property of upwards of 800 feet in front on the St. Lewis Road, adjoining the Commanding Engineer's House, and running upward and back to the Cime du Cap; which property is bounded on either side by the lands of the Crown, I am requested by the proprietors to intimate the same to you, for the information of His Excellency the Governor General, as it is not unlikely that the Crown may desire to acquire the rights of my clients; part of the property so acquired is held by the Crown, on leases which will expire in 1845 and 1852, and part of the Barracks recently erected is built thereon. It being the intention of the proprietors to commence large improvements on the premises, if the Crown should not desire to treat with them, I shall be obliged for as early a reply to this communication as may be convenient.

I have, &c.

(Signed,)

J. H. KERR,
Agent for W. Lampson.

To Colonel Rowan,
Military Secretary, &c. &c.

Quebec, 20th May, 1839.

SIR,

On the 12th ultimo, I had the honor, on behalf of Mr. William Lampson and others, to address a letter to you in respect to a purchase made by them from the Nuns of the Ursuline Convent of certain property, situated on the St. Lewis Road, and running back to the Cime du Cap. My clients have requested me to express their wish to receive an answer to their communication, if it be not deemed inexpedient by the Government, as they are desirous to commence the improvements they have it in contemplation to make, should the Crown not think it advisable to treat with them.

I have, &c.

(Signed,)

J. H. KERR,
Agent for W. Lampson.

To Colonel Rowan,
Military Secretary.

Head Quarters, Montreal, 27th May, 1839.

SIR,

I have been directed to acquaint you, in reply to your letter of the 20th instant, that your communication of the 12th ultimo, has been referred to the Commanding Royal Engineer for his report, and is now under consideration.

I have, &c.

(Signed,)

WM. ROWAN, M. S.

To J. H. Kerr, Esquire, Quebec.

Quebec, 27th December, 1839.

SIR,

Having observed in last night's Official Gazette, the Order in Council appropriating my property, outside St. Lewis Gate, for the use of the Crown, for the purposes of Military defence, in consequence of its having been deemed expedient to do so by an anterior order in

Council of H
September las
City of Queb
with a view
"perty," in o
and I am to p

To C. N. Mo

Province of
Lower Canad

At Her
vernment
ninth
Lord

WHEREAS
within the li
making and c
Excellency Si
tember now la
parcel of Lan
Therefore Hi
Her Majesty's
Majesty in th
visible to He
ing parcel of
Royal Predec
to say, all tha
Parish of Qu
Ball Cartridge
reserved by th
upon the St. L
west, by land
the summit of
eight acres, or
and nineteen
Government,
cified, be acc
hereby declar
quantity of la
then Govern
last past, was
purpose.

Council of His Excellency Sir John Colborne, then Governor General, dated the 2nd day of September last past; I beg to state that I have appointed Wm. Henderson, Esquire, of the City of Quebec, to be my Expert, to meet such Expert as may be appointed by the Crown, with a view "to ascertain the indemnity to be made to me as the purchaser of the said pro-
"perty," in conformity with the said Order in Council of the said 2nd day of September last, and I am to pray that the arbitration be directed to be proceeded with immediately.

I have, &c.

WILLIAM LAMPSON,

By his Agent, J. H. KERR.

To C. N. Montizambert, Esquire,
Civil Secretary,
Montreal.

Province of }
Lower Canada. }

At Her Majesty's Executive Council for the Province of Lower Canada, held at the Government House, in the City of Montreal, in the Province of Lower Canada, on the ninth day of December, in the third year of Her Majesty's Reign, and in the year of our Lord one thousand eight hundred and thirty-nine—

PRESENT:

His Excellency the Administrator of the Government in Council.

WHEREAS a certain parcel of Land hereinafter mentioned, situate in the St. Lewis Road, within the limits of the Parish of Quebec, is required by Her Majesty, for the purpose of making and constructing thereon works of Military defence; And whereas by an Order of His Excellency Sir John Colborne, Governor General in Council, made on the second day of September now last past, it was declared to be expedient, and it was thereby ordered that a certain parcel of Land should be appropriated and applied to and for works of Military defence; Therefore His Excellency the Administrator of the Government, by and with the advice of Her Majesty's Executive Council for the said Province, in the exercise of the right of Her Majesty in this behalf, doth hereby declare that it hath been and is judged expedient and advisable to Her Majesty, by and with the advice of Her Majesty's said Council, that the following parcel of land, now and for a long time past in the possession of Her Majesty and Her Royal Predecessors, be appropriated and applied to and for works of Military defence, that is to say, all that part and parcel of land situate on the St. Lewis Road, within the limits of the Parish of Quebec; bounded on the east by land the property of Her Majesty, called "the Ball Cartridge Field," on the north by the *Grande Allée* or St. Lewis Road, except the portion reserved by the Nuns of the Ursuline Convent, viz: two hundred and eighty-nine feet frontage upon the St. Lewis Road, by a depth of five hundred and thirty-three feet English; on the west, by land also the property of Her Majesty, called the Race Course, and on the south by the summit of a precipitous rock (*Cime du Cap*,) the said parcel of land containing twenty-eight acres, one thousand seven hundred and eighty-five yards or twenty-eight acres, one rood and nineteen perches, English. And, it is ordered by His Excellency the Administrator of the Government, by and with the advice aforesaid, that the said parcel of Land hereinbefore specified, be accordingly appropriated and applied to and for works of Military defence, and it is hereby declared that the said parcel of Land so to be appropriated and applied is included the quantity of land which in and by the aforesaid Order of His Excellency Sir John Colborne, then Governor General as aforesaid, in Council, bearing date the second day of September now last past, was ordered to be appropriated and applied to and for the same last mentioned purpose.

By His Excellency's Command,

G. H. RYLAND.

Province of }
Lower Canada. }

At Her Majesty's Executive Council for the Province of Lower Canada, held at the Government House, in the City of Montreal, in the Province of Lower Canada, the seventeenth day of December, in the third year of Her Majesty's reign, and in the year of our Lord one thousand eight hundred and thirty-nine—

PRESENT:

His Excellency the Administrator of the Government in Council.

WHEREAS a certain parcel of land hereinafter mentioned, situated on the St. Lewis Road, within the limits of the Parish of Quebec, is required by Her Majesty, for the purpose of making and constructing thereon works of Military defence; And whereas by an order of His Excellency Sir Richard Downs Jackson, Administrator of the Government, in Council, made on the ninth day of December now last past, it was declared to be expedient, and it was thereby ordered that a certain parcel of land should be appropriated and applied to and for works of Military defence; Therefore His Excellency the Administrator of the Government, by and with the advice of Her Majesty's Executive Council for the said Province, in the exercise of the right of Her Majesty in this behalf, doth hereby declare that it hath been and is judged expedient and advisable to Her Majesty, by and with the advice of Her Majesty's said Council, that the said parcel of land be appropriated and applied to and for works of Military defence, that is to say, all that part and parcel of land situate on the Saint Lewis Road, within the limits of the Parish of Quebec; bounded on the east by land the property of Her Majesty, on the south by land leased by the Nuns to Mr. A. Ferguson, until the year one thousand eight hundred and fifty-two, and on the west by the land sold by the Nuns to William Lampson, said parcel of land containing three acres two roods and five perches; and it is ordered by His Excellency the Administrator of the Government, by and with the advice aforesaid, that the said parcel of land, so to be appropriated and applied, is included the quantity of land which in and by the aforesaid order of His Excellency the Administrator of the Government, in Council, bearing date the ninth day of December, now last past, was ordered to be appropriated and applied to and for the same last mentioned purpose.

By His Excellency's Command.

G. H. RYLAND.

REPORT OF COUNCIL, OF 2ND SEPTEMBER, 1839.

Extract from a Report of a Committee of the Executive Council, dated 2nd September, 1839, and approved by His Excellency the Governor General, respecting the purchase by Government of certain ground on the St. Lewis Road, near Quebec, recently acquired by Mr. William Lampson and others, from the Nuns of the Ursuline Convent.

The Committee having taken into consideration your Excellency's reference on the subject of Mr. Lampson's purchase from the Ursuline Nuns of certain property, situated on the St. Lewis Road, and which is required for Military purposes, and having had reference to the opinion of the Attorney General, the Committee humbly recommend that that Officer be instructed to draft a Proclamation for the purpose of applying and appropriating the said property to Military uses, the same being essential for the defence of the City; and in order to ascertain the indemnity to be made to the purchase of the said property, it is recommended that Experts be employed in the usual way.

Certified.

(Signed,)

JASPER BREWER,

Asst. Clk. Ex. Council.

SIR,
I have the
valuation of yo
has been referre

To Mr. Wm. I

SIR,
Having
trator of the Go
me certain prop
order in Council
derson my Exp
referred to you
proceeded with,

To Lieut. Color
Mil

SIR,
I have to
person may be a
nominated your
and which, by a
And, in reply, I
the Forces to th
the above occas

To Wm. Lamp
Queb

GENTLEMEN,

I h
Military Secret
ing to determin
for Military pur
"tions have bee
"at Head Quar
"sible."

In the full
sible, my Expe
to repair hither

Government House,
Montreal, 30th December, 1839.

Sir,
I have the honor to acquaint you that your application of the 27th instant, respecting the valuation of your property near Quebec, recently required for purposes of Military defence, has been referred for action to the Military Secretary.

I have, &c.

(Signed,) C. N. MONTIZAMBERT,
Asst. Civil Sec'y.

To Mr. Wm. Lampson.

Quebec, 4th January, 1840.

Sir,
Having recently communicated to the Civil Secretary of His Excellency the Administrator of the Government, that I had, in consequence of the recent Proclamation, taking from me certain property on the St. Lewis Road, for Military purposes, and in conformity with the order in Council of His Excellency the late Governor General, nominated Mr. William Henderson my Expert to value the said property. I have been informed that my letter had been referred to you for action, I am, therefore, to express my desire that the valuation should be proceeded with, at as early a day as may be found convenient.

I have, &c.

WM. LAMPSON,
By his Agent, J. H. KERR.

To Lieut. Colonel Sir C. R. O'Donnell,
Military Secretary.

Montreal, 11th January, 1840.

Sir,
I have to acknowledge the receipt of your letter of the 6th instant, requesting that a person may be appointed, on the part of the Crown, to meet Mr. Wm. Henderson, of Quebec, nominated your Expert for the valuation of a certain property on the St. Lewis Road, Quebec, and which, by a recent order in Council, has been considered necessary for Me. And, in reply, I beg to acquaint you, that, directions have been given by the Forces to the respective Officers of Ordnance, at Head Quarters, to ap the above occasion with as little delay as possible.

I have, &c.

C. R. O'DONNELL,
Lt. Col.

To Wm. Lampson, Esquire,
Quebec.

Quebec, 5th February, 1840.

GENTLEMEN,

I beg to transmit to you copy of a letter addressed to me by Sir C. O'Donnell, Military Secretary to His Excellency the Commander of the Forces, in respect to the proceeding to determine the value, by arbitration, of certain property taken from me by the Crown for Military purposes, in which it will be observed that I was therein informed, "that directions have been given by the Commander of the Forces to the respective Officers of Ordnance, at Head Quarters, to appoint a person for the above occasion with as little delay as possible."

In the full assurance that the arbitration would be proceeded with at as early a day as possible, my Expert, who resides at a very considerable distance from this City, was requested to repair hither to proceed upon the matter, in conjunction with the arbitrator for the Crown.

He has been in town for several days, and his detention is attended with expense to me and inconvenience to himself, and I therefore respectfully pray, that you will be pleased to take the premises into consideration with a view to carry out the directions of the Commander of the Forces, as communicated to me by Sir C. R. O'Donnell, Military Secretary.

I have, &c.

WILLIAM LAMPSON,
By his Agent, J. H. KERR.

To respective Officers Ordnance,
Quebec.

Office of Ordnance,
Quebec, 5th February, 1840.

SIR,

In acknowledging the receipt of your letter of this day's date, respecting the appointment of an arbitrator, on the part of the Crown, to meet Mr. Henderson, the Expert of Mr. Lampson, in reference to his property outside St. Lewis Gate, recently appropriated for Military purposes.

We beg to acquaint you that Captain Whitmore, Royal Engineers, has been nominated to that Office by the respective Officers at Montreal, and that the same was notified to Captain Whitmore by us on the 31st ultimo.

We have, &c.

W. ANTROBUS HOLWELL,
Dy. Ord. Store-keeper.
J. KIRBY, Lt. Col. Com. R. A.
GEO. WHITMORE, Capt.
Dist. R. Engineers.

To J. H. Kerr, Esquire,

Quebec, 7th February, 1840.

SIR,

I beg to transmit to you a rough draft of the arbitration bond to be entered into, as drawn by the Honorable Mr. Panet, N. P., in order that you may submit it to the respective Officers with a view to ascertain whether they approve the same, or whether they would suggest any alteration therein. I also take leave to furnish you with the names of four gentlemen of the first respectability, the appointment of any one of whom as Umpire, I submit for consideration. I have, as you will observe, selected two of English and two of French origin, that it may not be supposed I have a predilection.

J. HUNT,
J. LANGEVIN, Asst. Civil Sec'y.
N. FREER,
L. MASSUE.

I have, &c.

(Signed,) J. H. KERR.

To Captain Whitmore.

On this day, the _____ of February, one thousand eight hundred and forty, before us, the undersigned Notaries Public for the Province of Lower Canada, personally came and appeared

Which said parties, in the presence of us, the said Notaries, have declared, stipulated, covenanted and agreed as follows, that is to say:

Whereas it became necessary to ascertain the actual value of the several lots of land and premises belonging to the said William Lampson, situated and being on the St. Lewis Road, within the limits of the Parish of Quebec, and which, by orders of Her Majesty's Executive Council, of the ninth and seventeenth days of December now last past, sanctioned and approved by His Excellency the Administrator of the Government of this Province, are declared to be required by Her Majesty for the purpose of making and constructing thereon works of Military defence.

Now, these presents and we, the said Notaries, witness that they, the said parties hereto, for the purpose of making said valuation, have appointed for their Experts, to wit: the said William Lampson, William Henderson, Esquire, and the said

Captain G. St. V. Whitmore of the Royal Engineers, to whose valuation, award, order and arbitrament they, the said parties, do respectively submit and which they bind and oblige themselves to well and truly stand to, obey and observe, fulfil and keep, and to the umpirage of such person as the said Experts shall indifferently name and choose for umpire in and concerning the premises, provided such umpire shall be chosen and appointed by the said Experts, previous to their proceeding to the said valuation.

Quebec, 8th February, 1840.

Sir,

I have forwarded a copy of the draft of an arbitration bond to Montreal for the opinion of the respective Officers, whose decision I am anxious to obtain prior to entering into any obligation. I much regret delay, but as I have been nominated by the representatives of the Board of Ordnance, who are at Montreal, instead of those stationed at Quebec, it is unavoidable.

I presume it will be time enough for me to propose names of umpires, when I get an answer on the subject of the draft. I will return the draft on Monday, as I am too busy to make a copy of it to-day.

I have, &c.

(Signed,)

G. WHITMORE,

Captain R. Engrs.

J. H. Kerr, Esq.

Quebec, 18th February, 1840.

Sir,

Craving reference to your note to me of Saturday week last, I would feel much obliged if you would inform me whether any answer has been received from the respective Officers of Ordnance to the communication you stated therein you had been under the necessity of making to them. Mr. Lampson is most desirous that this long pending matter should be brought to issue,—his arbitrator is still kept in town at a very heavy expense.

I have, &c.

(Signed,)

J. H. KERR.

To Captain Whitmore.

Quebec, 19th February, 1840.

Sir,

In reply to your note of yesterday's date, I have the honor to inform you, that I have not yet received any answer to my letter to the respective Officers at Montreal, and that much as I regret the delay, I cannot proceed in the business without instructions from them respecting the proposed draft of an arbitration bond.

I have, &c.

(Signed,)

G. WHITMORE,

Captain R. E.

To J. H. Kerr, Esquire.

Quebec, 9th March, 1840.

GENTLEMEN,

Referring to the correspondence I have had with the Civil Secretary,—the Military Secretary—the respective Officers of Ordnance at Quebec, and Captain Whitmore, R. E., of the nature of which you are fully informed, I beg most respectfully, to express my most urgent request that the valuation, by arbitration, of my property outside St. Lewis Gate, which has been taken from me by an act of authority, for Military purposes, should be proceeded with in the manner prescribed by the Crown.

The delay which has already taken place in carrying out the arbitration has been attended with serious inconvenience and very considerable expense to me, inasmuch as my arbitrator, who resides at a distance of forty miles from town, repaired to Quebec upon Captain Whitmore being appointed by the Crown as its Expert, and was detained here for a fortnight, when, finding that the valuation was still delayed, he was obliged to leave town.

The only way in which I can account for the delay which has arisen is by ascribing it to the fact, which is known to me, that Colonel Oldfield has, until very recently, been absent from Montreal—now that he has returned to that City, I do trust that the matter will be promptly disposed of as promised by Sir C. O'Donnell's letter to me of the 11th January last.

I have, &c.

(Signed,)

WILLIAM LAMPSON,
By his Agent, J. H. KERR.

To the respective Officers of the Ordnance,
Montreal.

Office of Ordnance,
Head Quarters, Montreal, 13th March, 1840.

Sir,

In reply to your letter of the 9th instant, complaining of the delay which has taken place in carrying out the arbitration on Mr. Lampson's property at Quebec, we beg to acquaint you that the subject was referred to the Commander of the Forces, on the 17th ultimo, and as soon as we receive His Excellency's decision, the business will be proceeded with immediately.

We have, &c.

(Signed,)

J. OLDFIELD,
Lt. Col. Comg. Engineers.
J. SISSON, O. S.
J. CAMPBELL,
Lt. Col. Comg. R. Artillery, Canada.

J. H. Kerr, Esquire,
Agent to Mr. Lampson, Quebec.

Quebec, 16th March, 1840.

Sir,

Referring to your letter to me of the 11th January last, in which you acquaint me that directions have been given by the Commander of the Forces to the respective Officers of Ordnance at Head Quarters to appoint a person, with as little delay as possible, on the part of the Crown, to proceed to the valuation of the property situated on the St. Lewis Road, taken from me by Proclamation; and to the letter of the respective Officers of Ordnance at Montreal, addressed to me on the 13th instant, copy of which is annexed, I trust that His Excellency the Commander of the Forces, considering the peculiar position in which I am placed, will give the subject to which allusion is made in the latter communication, and which subject it is stated was referred to the Commander of the Forces on the 17th ultimo, his very early consideration, with a view to the decision as asked for by the Ordnance, so that the arbitration as promised may be proceeded with immediately thereafter.

I have, &c.

WM. LAMPSON,
By his Agent, J. H. KERR.

To Lieut. Colonel Sir C. R. O'Donnell,
Military Secretary, &c. &c.

Montreal, 18th March, 1840.

SIR,

I have had the honor to receive your letter of the 16th March, instant, requesting that the Commander of the Forces would give his very early consideration to the subject of your claim to remuneration for certain lands ordered by the Ordinances of the 9th and 17th of December last to be appropriated to Military purposes; and in reply beg to acquaint you, that in consequence of the apparent extravagance of some of the propositions made on your part, it became necessary to refer the case to the Attorney General, whose opinion has been transmitted to the respective Officers of Ordnance, with directions to cause every circumspection to be observed in the negotiations.

I have, &c.

(Signed,) C. R. O'DONNELL,
Lt. Col. M. S.

To Wm. Lampson, Esquire,
Quebec.

Royal Engineer Office,
Quebec, 21st March, 1840.

SIR,

I have the honor to forward the copy of an Arbitration Bond received this day from Montreal.

I have, &c.

(Signed,) G. WHITMORE, Capt.
Dist. R. Engineers.

To J. H. Kerr, Esquire,

Quebec, 24th March, 1840.

SIR,

I have the honor to acknowledge the receipt of your letter of the 21st instant, transmitting copy of an Arbitration Bond, which it is desired should be entered into by the Ordnance on the one part, and myself on the other, in respect to fixing a value upon the property recently taken from me for Military purposes by an act of authority. Having no option left me, I am to inform you that I am ready to sign the Bond, and shall be glad to know when and where I am to attend for such purpose.

I have, &c.

WILLIAM LAMPSON,
By his Agent, J. H. KERR.

To Captain Whitmore, R. E.

Quebec, 26th March, 1840.

SIR,

On looking over the draft of bond you will find that it is provided therein that some person should appear for the respective Officers of Ordnance and that that person must sign the bond. There is no objection on Mr. Lampson's part, that you should sign, as representing the Ordnance, the document in question, but if any other of the Officers at Quebec were to do so it would perhaps be better. If, however, any difficulty should present itself to you or the officers here, the course to be taken will be for a letter to be addressed by the respective officers at Montreal to any person at Quebec, authorising him to represent the Ordnance.

I have, &c.

(Signed,) J. H. KERR.

To Captain Whitmore, R. E.

Quebec, 2nd April, 1840.

SIR,
I understand that Mr. Penn has been requested by the superior Board of Ordnance at Montreal to sign the Bond,—I presume, therefore, that no further delay will occur.

I have, &c.

(Signed,)

G. WHITMORE,

J. H. Kerr, Esquire.

Quebec, 4th April, 1840.

SIR,
Mr. Penn promised to call at my Office yesterday to read the Bond ; I suppose he forgot. I have, therefore, sent it to him and trust delay may be avoided.

I have, &c.

(Signed,)

G. WHITMORE.

J. H. Kerr, Esquire.

On this day of , one thousand eight hundred and forty, before us, the undersigned Notaries Public for the Province of Lower Canada, personally came and appeared, William Lampson, of the City of Quebec in the District of Quebec, and Province of Lower Canada, aforesaid of the one part, and

Which said parties, in the presence of us, the said Notaries, have declared, stipulated, covenanted and agreed as follows, that is to say :

Whereas it becomes necessary to ascertain the actual value of the several lots of land and premises belonging to the said William Lampson, situated and being on the St. Lewis Road, within the limits of the Parish of Quebec and which by an Order of Her Majesty's Executive Council, of the ninth and seventeenth days of December now last past, sanctioned and approved by His Excellency the Administrator of the Government of this Province, are declared to be required by Her Majesty for the purpose of making and constructing thereon works of Military defence.

Now these presents, and we the said Notaries, witness that they the said parties hereto, for the purpose of making said valuation, have named and appointed for their Experts or Appraisers respectively, the following persons, to wit, the said William Lampson, hath named and appointed

and the said respective Officers of Her Majesty's Ordnance have named and appointed

And it is further covenanted and agreed by and between the said parties, that the said Experts or Appraisers, together with a third Expert or Appraiser to be by them indifferently named, shall, after having been duly sworn to act as such, before one of the Justices of Her Majesty's Court of King's Bench for the said District, with all convenient speed, ascertain, estimate, and appraise the present value of the said land and premises, as they now are belonging to the said William Lampson and required by Her Majesty for the purpose aforesaid, and of the estate and interest of the said William Lampson therein, as the same now exist, and that the said Experts or Appraisers shall state in their Report in that behalf the particulars of their estimation and

appraisement,
their report c
and premises
it is further co
opinion it shal
premises.

Montrea

MEM. —

A true

On the 6
fore Louis P
on behalf of
Captain Whi
in a case pen
said William
in case of dif
render an aw
And the
that gentlem
By the
of the lands
poses, includ
The Arbitrat
Umpire havi
and a great n
Suburbs.

Rejectin
twenty years
one shilling
and it does n
the lots to t
Lampson's g
Many s
were also ob
rates had be
Having
question, the
and bounding
and his plan
upwards of 5

The gr
sidering per
Grande All
Circe du Cap
Arbitrators
vernment fro

appraisement, and the principles upon which the same shall be by them made, and shall in such their report comprise a sufficient description of the extent, boundaries and nature of the land and premises which shall by them be estimated and appraised in pursuance of these presents, and it is further covenanted and agreed by and between the said parties that in case of difference of opinion it shall be competent to any two of the said three Experts or Appraisers to report in the premises.

This is my draught.

Montreal, 12th March, 1840.

(Signed,) C. R. OGDEN, Atty. General.

MEM.—Care should be taken not to make any alterations.

(Signed,) C. R. O'DONNELL.

A true Copy.

(Signed,) ROWAN SPONG, Clerk Ml. D.

A true Copy of a Copy.

(Signed,) G. WHITMORE.

REPORT OF WM. HENDERSON.

AWARD.

On the 6th day of April, instant, a Bond of Arbitration was entered into and executed before Louis Panet and Colleague, Notaries Public in this City, between Richard Penn, Esquire, on behalf of H. M. Government on the one part, and William Lampson on the other, whereby Captain Whitmore, R. E., and William Henderson were appointed as Arbitrators or Experts in a case pending between H. M. Government, represented by the Ordnance Department, and said William Lampson; with the right of choosing a third person as Umpire between them in case of difference of opinion; of whom the concurrence of two out of the three is necessary to render an award.

And the said Experts or Arbitrators having named and appointed Noah Freer, Esquire, that gentleman agreed to act as Umpire.

By the terms of the Bond, the Arbitrators are to ascertain, estimate and appraise the value of the lands taken from Mr. Lampson by Proclamation by H. M. Government for Military purposes, including the buildings thereon, and the estate and interest of Mr. Lampson therein. The Arbitrators having been duly sworn before the Honorable Mr. Justice Bowen, and the said Umpire having been called in, and also sworn, the business of the arbitration was proceeded in, and a great mass of information was collected relative to the value of property in St. Lewis Suburbs.

Rejecting all such as are not of a comparative recent date, that is within the last fifteen or twenty years, it was found that building lots in the main Street had been sold at from sixpence to one shilling per superficial foot—a great proportion of which were at the rate of seven pence; and it does not appear that the difference of price was governed by the distance or proximity of the lots to the City walls, as some of the highest rates had been obtained very near to Mr. Lampson's ground.

Many sales of larger lots of ground purchased for the purpose of grazing or pleasure grounds were also obtained, averaging from about one to three hundred pounds per arpent, the highest rates had been obtained for a field situate beyond Mr. Lampson's ground.

Having obtained every possible information, and moreover repeatedly visited the ground in question, the Arbitrators proceeded to comply with the stipulations of the Bond by designating and bounding it; for which purpose they caused it to be surveyed by Mr. Ware, to which survey and his plan they refer—it will be found that Mr. Ware reduced the extent of the ground by upwards of 50,000 feet, from the area assigned by the plan produced by Mr. Lampson.

The ground according to Mr. Ware's survey, which the Arbitrators are unanimous in considering perfectly accurate, is bounded in front towards the North West by the Chemin de Grande Allée otherwise St. Lewis Street, in rear by a line taken three French feet below the Cime du Cap or Brow of the Hill, the precise situation of which was agreed upon between the Arbitrators and pointed out to Mr. Ware; on the North East by the property acquired by Government from the late Archibald Ferguson; and towards the South West, partly by the ground

appertaining to Government whereon is erected the Towers No. 1 and 2; and partly by the property of Pierre Pelletier, containing an area, according to Mr. Ware's plan, of one million two hundred and twenty-three thousand eight hundred and twenty-nine superficial English feet. (1,223,829 feet.)

The buildings thereon are two Barracks, formerly Cavalry Stables, and a house now occupied as a Tavern.

In making the Estimate as prescribed by the Bond, it was mutually agreed upon between the Arbitrators, and recorded in their minutes, that Mr. Lampson's claim should be considered under two distinct heads;

First the actual and intrinsic value to Mr. Lampson of the ground that had been taken from him, and secondly the loss he sustains by the diminution in value of his adjoining properties not taken possession of by Government, arising from their forcible separation, whereby he has been deprived of the means of improving the value of the portion he still retains. In approaching the consideration of these valuations, it must be fully borne in mind, that the acquisition of the property from Mr. Lampson by H. M. Government, has not been by the usual mode of bargain and sale, where the seller has the option of accepting or rejecting the price offered; in the present case it has been found expedient to seize the property in the first instance, and to value it afterwards. Therefore, in making that valuation Mr. Lampson must be paid for his property, such sum as it can be fairly and honestly supposed and found to be worth to him; and that without minute reference to other sales in the neighbourhood effected under very different circumstances. Indeed, if this was even not the case, I find it totally impossible to value it by the widely different sales made at different periods in St. Lewis Suburbs, upon which it would be extremely difficult to fix anything like a fair average; and, moreover, it would be unfair towards the Government to value Mr. Lampson's ground as altogether building lots at the high rates obtained in the main Street, and equally unfair to Mr. Lampson to value it wholly as grazing ground.

Therefore, to enable us to make a just and fair valuation, it will be necessary, as the basis of our calculation, to consider for what purposes Mr. Lampson made the purchase of this extensive lot of land, and in what manner he proposed to proceed to render it valuable. It is in evidence before us, that Mr. Lampson having acquired the extensive beach property at L'Ance des Mères used as a Lumber Ground and Ship-Yard, subsequently purchased the ground taken from him by Government with a view of building a Suburb on it, to be occupied by Ship Carpenters, Labourers and others employed in his establishment below, and that he proposed to connect these properties by making a cart road up the hill, upon which road he further intended to sell off building lots; and it is not to be disputed, that the whole of his plan, as stated above, is perfectly easy and practicable; although, perhaps, not in the precise manner, or to the very full extent of Mr. Larue's plan, submitted to the Arbitrators.

It is undisputed that the increased and increasing commerce, in lumber, and ship-building principally carried on along the beach below the Plains of Abraham from L'Ance des Mères to Wolfe's Cove, has within a very few years back rapidly augmented the population of the City in that quarter, that rents of dwellings there are enormously high, and that the confined space between the Cape and the River is rapidly filling up by houses. The consequence of which is, that building ground upon and near to Mr. Lampson's beach property is actually higher than even in the commercial streets of the City. By opening a road, therefore, from his beach property to the ground acquired from the Nuns, and taken from him by Government, Mr. Lampson would at once render the latter of immense value. The whole of the ground between that and the walls of the City was previously in the possession of Government, and that beyond him too far off to offer any very serious competition; he could, therefore, very safely calculate upon a prompt sale of a great proportion of his building lots, and at high rates of ground rent; nor is this the only advantage he would have reaped by the speculation. The occupation of the ground taken from Mr. Lampson as a Suburb by persons employed in his Ship-Yard and Lumber Grounds, would have been productive of a saving in the price of labour, to an extent perhaps surpassing in itself all the other advantages he could have reaped from his proposed undertaking. I have been assured that in consequence of the distance the persons employed by Mr. Lampson have to come from, the St. Roch and St. John's Suburbs, he has to pay them from 6d. to 9d. per day higher than these people obtain at the Ship-Yards in Town. Mr. Lampson employs about 300 men on an average the year round, of whom about 200 come from Town and are paid extra. Now, if we assume the extra pay at only 6d. per day, Mr. Lampson would, in this one item alone, have saved upwards of £1,500 per annum, by the building of the proposed Suburb. Upon the whole it must be admitted that Mr. Lampson possessed advantages to render the ground valuable, that no other property in its vicinity could in any way compete with, the property acquired by Government from Mr. Ferguson could never be of anything near the value of Mr. Lampson's, inasmuch as having no connecting beach property, it could not be

improved as valuable building ground; and for the same reason the property acquired from the Nuns by Mr. Pelletier on the other side, can only be made valuable by withdrawing the competition offered by Mr. Lampson, and purchasing at high rates the beach lots below it. Having thus fully entered into the grounds upon which I propose to value the property, I will now proceed, commencing for reasons hereinafter assigned,* with the *second* portion of the valuation, namely, the loss sustained by Mr. Lampson on the property he still retains, in consequence of its separation from the portion taken possession of by H. M. Government. It must be perfectly evident that had Mr. Lampson been permitted to have carried the projected road up the hill, he would have been enabled to have laid off a number of building lots upon this road, *which must now be entirely lost*. Mr. Lampson asserts that he could have laid out on this road 45 lots of 40 feet front each, and he has produced proof that he could have sold such lots as he could lay out at the rate of £250 each. The number of lots he could lay out has, however, been disputed, but there is no doubt that he might have laid out more than 20 lots, at £250 each, is £5000

Extra cost of building the rear wall of a large Store to support a part of the road, deducted,	250
	£4750
Probable cost of making the road,†	1000
	£3750

Producing an indisputable nett gain of £3750 to Mr. Lampson, by the making of this road, from itself, by which the property above the hill was to be improved, exclusive of the additional great value given to the Ship-Yard, as before stated.

It is only here necessary to state the fact, that so far from being chargeable to the general undertaking, or of its forming an item in deduction of the value of the other property, the making of this road would not only have paid itself, but, moreover have left a large profit.

Notwithstanding our previous agreement to consider this as forming part of the claim, the other arbitrators being now of opinion that under the stipulations of the Bond, we cannot award to Mr. Lampson any indemnification for loss sustained on the property he still retains, in consequence of its separation from what has been taken,—in submitting to their views of the case, I shall content myself by proving the fact stated in the last paragraph.

I will, therefore, proceed to consider the other portion of the award, viz:—the value to Mr. Lampson of the ground actually taken possession of by Government.

Upon the admitted principle that Mr. Lampson is entitled to remuneration equal to the value he could have obtained for his ground, we must adopt the mode of proceeding he had proposed for himself, viz.: the profit that would have accrued to him by laying out the ground into building lots communicating with his other property by a cart road.

We must, therefore, value the ground according to the value of the ground rents likely to have been obtained, and which Mr. Lampson has proved to us he could have obtained. Estimating the whole area agreeably to Mr. Ware's plan, deducting the portion of this area proposed by Mr. Larue's plan, to have been occupied as public streets, and adding to the amount thus obtained, the estimated value of the buildings now on the ground. From the gross amount, the following deductions are to be made: firstly, the cost of opening the main street proposed from the Brow of the Hill to the Grande Allée, and which is perfectly practicable, although to be made of easier ascent, it might be deemed expedient to wind a little in the lower part of the ground; when once opened, the further cost of improving and maintaining it falls on the occupiers of lots fronting it; the cost of opening the other streets as in all similar cases is defrayed by those who take the lots laid out on them—that connecting this property with the beach below, I have already proved to leave a large profit by making it—therefore, £500 is the very utmost that could be expended in making streets.‡

Secondly—the probable loss of rents upon the portion of the property that might not be immediately let, and in this we must include the portions of the ground still held under lease, which would not have come into Mr. Lampson's possession till the years 1845 and 1852. In part set off for this it must, however, be remarked, that the immediate occupation and improvement of the greater portion of the ground would necessarily greatly improve the value of what was held back, or unlet: probably to such an extent as to occasion none or very little loss from

* These reasons are, that it has been found that no award can be made for any loss sustained by Mr. Lampson on this head under the stipulations of the Bond.
† Mr. Hamel's estimate, made by order of the Arbitrator's, is under this sum.
‡ See Hamel's Report and estimated cost, lower than mine.

that circumstance. Nevertheless, we will admit that a loss would occur, and I shall estimate that loss at ten per cent. upon the value of the portions still under lease.

The *last* deduction will be the value of the constituted rents secured to the Ursuline Nuns by their sale to Mr. Lampson. Captain Whitmore has computed the value of these Rentes Constitué, bearing 6 per cent. interest, at £2683 9 9, and the highest market price obtained for such securities for several years back has never exceeded eighty per cent., seventy-five is the usual rate. It appears in evidence before us, that Mr. Lampson had entered into engagements with a very considerable number of persons for the sale of his proposed building lots, which had he not been prevented, by being deprived of the ground, would now have been completed, at rates varying from one pound ten shillings to five pounds for each lot of the usual size of 2400 superficial feet—giving an average of three pounds five shillings per lot. Equal to a capital of £55 3 4, at six per cent, valuing the ground by the foot, this would give 5d. 7-16 per French foot, equal to five pence per English foot.

Now, by Mr. Ware's survey, the total area of the ground is in English feet 1,228,829

Deduct,

The area of the streets projected by Mr. Lampson according to Mr. Larue's plan, less what is curtailed by the diminished area of the ground, 264,903

Leaving English feet, 958,926

English measure at the proportionate reduced rate of five pence per foot, would leave the nett sum of £17,330 16 8, to be paid to Mr. Lampson, after deducting the value of the rents due to the Nuns, and making allowances for cost of improvement, and loss of intermediate rents.

958,926 English feet, at 5d. 7-16 per French foot, or equal to 5d. per English foot,	£19,977 12 6
Value of the Buildings on the ground,	875 0 0
	£20,852 12 6

Deductions.

Cost of opening the main street,	£500 0 0
Loss of intermediate revenue upon the lots still held under lease, 13 arpents, equal to 420,000 English feet, at 10 per cent. deduction, valued at 5d. per foot,	875 0 0
	1,375 0 0

Nett cost to Government, £19,477 12 6

Deduct principal of <i>Rentes Constitué</i> s due to the Nuns, £2,683 9 9,	
valued at 80 per cent.	2,146 15 10

Nett balance to be paid to Mr. Lampson, £17,330 16 8

Having thus estimated the value of the ground, agreeably to the proofs before us, and according to Mr. Lampson's proposed mode of improving its value, the result of the whole is, that the total area of the ground, including both streets and building lots, would, at that estimation, be a small fraction over 3½d. per foot, English measure, or about 4½d. per foot French.

I am fully satisfied that the whole of the ground is capable of being laid out into and used as building lots, without any other deduction whatever, excepting the space that was to be occupied by streets, and that the estimated rate of ground rent could have been obtained.

But as it has been strongly objected by Captain Whitmore, that the whole of the ground could not be made available to build upon, and, moreover, that the main street would be too steep to bring up in a straight line, by the consequent winding of which a further diminution in the extent of the building ground might be anticipated; and as I am anxious to meet his views as far as it is at all possible, consistent with the oath I have taken,—and, moreover, however certain I am of the correctness of my calculation, and that Mr. Lampson could really make even more of the ground than the amount of my estimate; nevertheless as many unforeseen obstacles and disappointments occur in the execution of the best matured plans and estimates of the nature in question, whereby Mr. Lampson might be disappointed in the attainment of all the advantages in view, to their utmost extent, even at the comparatively low estimate I have made, compared with his own,* considering also the certainty of his obtaining from Government immediate payment of a considerable sum, which he may invest elsewhere advantageously. I think it right and just towards the Government to give it the full and fair advantage inferred from all these circumstances; and, therefore, I propose to diminish the average rate of 3½d. and a fraction per English foot, to 3¼d. per foot.

* Mr. Lampson values his loss at £45,000.

shall estimate

Ursuline Nuns
these Rentes
price obtained
seventy-five is
into engage-
building lots,
ow have been
ch lot of the
lings per lot.
his would give

On 1,223,829 feet, - - - - - £16,572 13 10
Deduct,
The value of the Rentes Constituée due to the Nuns, at 80 per cent. 2,146 15 10
£14,425 18 0

Total indemnity due to Mr. Lampson, the Government assuming the payment of the rents due to the Ursuline Nuns.

Quebec, 29th April, 1840.

(Signed,) WM. HENDERSON.

IN CONTINUATION.

Whereas the views of Captain Whitmore and myself differ so very widely, as to make it impracticable to make any award in conjunction with that gentleman; and as moreover the Umpire and Captain Whitmore cannot come to any agreement in the premises. Therefore, in order to enable the Experts or Arbitrators to make an award, agreeably to the stipulations of the Bond, by meeting and agreeing with Mr. Freer, the Umpire in the award, he is desirous of giving, which is not very materially different from my own, *I have been induced* to make a further reduction from my within estimate; and in consideration that the sum awarded to Mr. Lampson will be immediately paid to him, I do hereby in conjunction with Noah Freer, Esq., the Umpire, decide and award that the value of the ground taken by Her Majesty's Government from Mr. Lampson, is three pence currency, per superficial English foot, agreeably to Mr. Ware's plan, and that in consideration that Government do assume and charge itself with the payment of the yearly rents due to the Nuns upon the said ground, do, moreover, make a deduction from the aforesaid price and valuation, of the sum of two thousand one hundred and forty-six pounds fifteen shillings and ten pence; leaving a nett sum to be paid by H. M. Government to Mr. William Lampson as a full indemnification for the aforesaid ground, of thirteen thousand one hundred and fifty-one pounds one shilling and five pence currency.

1,223,829 English feet at 3d. per foot, - - - - - £15,297 17 3
Deduct value of principal of rents due to the Nuns, - - - - - 2,146 15 10

Nett sum to pay Mr. Lampson, Currency, £13,151 1 5

Witness our hands, at Quebec, this 29th April, 1840.

(Signed,) WM. HENDERSON,
NOAH FREER.

It is further agreed that when H. M. Government has complied with this award, and paid Mr. Lampson the amount awarded, it is to be clearly understood that Mr. Lampson shall not either directly or indirectly make or cause to be made any road of communication fit for horses or wheel carriages from any portion of the beach property he now possesses below the Plains of Abraham up the hill, so as to ascend the said Plains.

Quebec, 29th April, 1840.

(Signed,) WM. HENDERSON,
NOAH FREER.

REPORT OF NOAH FREER, ESQUIRE.

Captain Whitmore and Mr. Henderson, the two Experts named in the Bond, having at the commencement differed on certain points, in regard to the mode of conducting the business entrusted to them, my interference as the third Expert, indifferently chosen, was required at a very early stage of the arbitration, and in giving my attention at all the meetings which have since taken place on the subject, I have been afforded the means of collecting much information, and of ascertaining the views of all parties in the progress of the investigation, and have been enabled to mature my own conclusions in the matter before us, and in compliance with the tenor of the Bond, I consider it my duty to state, that the pretensions set up on behalf of Mr. Lampson to a large amount, as a compensation for damages in consideration of the improvements he had in contemplation, on the land immediately in question, in connection with his property in front at the Cove, and of which a plan has been laid before us, I have not allowed to have any further weight with me, than to an extent of what I have conceived in fairness was practicable

for Mr. Lampson to accomplish, with reference to his estate and interest in the land taken by the Government. I concur with Mr. Henderson in regard to the extent and boundaries of the property, correctly described in his report, and generally in the reasons assigned by that gentleman, for estimating its value, and in conformity with those reasons, I therefore beg to submit the following as my estimate of the present value of the land and premises as they now are, belonging to Wm. Lampson, taken by the authority of the Government for Military purposes, including the buildings thereon, and every consideration connected with the estate and interest of Mr. Lampson therein.

Total area in English feet	1,223,829	as per Mr. Ware's plan of survey,	
at 8d. per foot,	- - - - -	Currency,	£15,297 17 3
		<i>Deduct,</i>	
Value of <i>Rente Constituée</i> due to the Nuns and to be assumed by the			
Government,	- - - - -		2,146 15 10

Total indemnity due to Mr. Lampson, £13,151 1 5

Quebec, 27th April, 1840.

(Signed,) NOAH FREER.

Quebec, 4th May, 1840.

GENTLEMEN,

The arbitration entered into by the Ordnance and myself in respect to determining the value of the property outside St. Lewis Gate, taken from me by act of authority for and appropriated to Military purposes, having been brought to a close, and a report having been made in the manner prescribed by the bond entered into on the 6th ultimo, by the Ordnance and myself; copies of which report have been furnished to both parties, I would beg respectfully to request that the award made by the Arbitrators, be paid over to me at the earliest possible day. The loss I have already sustained by the unusual course which has been adopted as regards my late property, has been severe, and I do, therefore, trust that I shall not have to complain of any further delay in the matter, which, should it take place, under present circumstances, would prove ruinous to me.

I have, &c.

(Signed,)

J. H. KERR,
Agent to Mr. Lampson.

To the respective Officers of Ordnance,
Montreal.

Office of Ordnance,
Head Quarters, Montreal, 7th May, 1840.

Sir,

We have, this day, to acknowledge the receipt of your communication of the 4th instant, calling by your Attorney for the payment of a sum said to be the value of certain lands purchased by you of the Ursuline Nuns.

And in reply, we beg to acquaint you that we have no orders to pay for such lands, and to remind you that your first communication on the subject was made to the Military Secretary, on 12th April, 1839, through whom your application should be made to the Commander of the Forces.

We have, &c.

J. OLDFIELD,
Lt. Col. Comg. R. Engineers in the Canadas.
J. SISSON, O. S.
J. CAMPBELL,
Lt. Col. Comg. R. Artillery, Canada.

J. H. Kerr, Esquire,
Agent to Wm. Lampson, Esquire.

Quebec, 9th May, 1840.

Sir,

Referring to your letter addressed to me on the 18th March last, I have now the honor to state for the information of His Excellency the Commander of the Forces, that the arbitration entered into by the Ordnance and myself, in respect to determining the value of the property outside St. Lewis Gate, formerly belonging to me, but taken by an act of authority for Military purposes, having been brought to a termination on the 29th ultimo, and report having been made, in the manner prescribed by the Bond entered into on the 6th ultimo, by the Ordnance and myself, I am desirous that the award made by the Arbitrators be paid over to me at the earliest possible day. The Ordnance to whom I applied for a liquidation thereof, have informed me, by letter of the 7th instant, that my application must be made to the Commander of the Forces through you! I therefore do so apply, trusting that His Excellency, seeing the delay of thirteen months which has already taken place in bringing this matter thus far, and the loss I have sustained by the unusual course which has been adopted as regards my late property and the ruinous consequences which must ensue to me, if further delay is permitted, will direct that the sum awarded by the Arbitrators be immediately paid to me.

I have, &c.

(Signed,)

J. H. KERR,
Agent for Mr. Lampson.

To Sir C. R. O'Donnell,
Military Secretary,

Montreal, 12th May, 1840.

Sir,

I have the honor to acknowledge the receipt of your letter of the 9th instant, on the subject of the appraisement of certain lands in the vicinity of St. Lewis Gate at Quebec; and beg to acquaint you that the reports of the several gentlemen who have recently been engaged in the investigation in question, are now before His Excellency the Governor General.

I am to add that the Commander of the Forces is not aware that any award has been made to you on the occasion to which you allude.

I have the honor to be,
&c. &c.

(Signed,)

C. R. O'DONNELL,
Lt. Col. M. S.

To Wm. Lampson, Esquire,

Quebec, 4th July, 1840.

Sir,

It is upwards of two months since the award, or as you term it, the appraisement, establishing the value of my late property without St. Lewis Gate, taken from me by a high handed and unprecedented act of authority, for Military purposes, was determined and duly reported to the respective Officers of Ordnance in strict conformity with the terms of the Bond prepared by the Attorney General, with reference to the precautionary measures; which you informed me, in your letter of the 18th March last, it had been thought necessary by His Excellency the Commander of the Forces to adopt. That bond was executed in all due form by the respective Officers and myself, and contrary to the reasonable expectation I had entertained the indemnification and equivalent for the injury I have sustained, as declared by the solemn award, made under oath by the experts, is, up to this moment, withheld from me; neither has any commonly reasonable and sufficient cause been assigned to me therefor.

Sir, the public good is in nothing more essentially interested than in the protection of every individual's private rights. I have been most wrongfully *disseised* of my property, contrary to the provisions of the great Charter and the Statutes of the Realm, which enact "that no man's land shall be seized into the Sovereign's hands excepting under the law," for that neither "Her Majesty nor Her Privy Council have any jurisdiction, power or authority by bill, petition, articles, libel or by any other arbitrary way whatsoever to examine or draw into question, determine or dispose of the lands or goods of any subjects of the Kingdom."

I beg you will lose no time in again bringing this important matter under the consideration of His Excellency the Commander of the Forces, with a view to obviate all further delay,

in paying over to me the award made by the experts, or what I would prefer, restore to me my property, with all the rights I possessed therein at the time it was seized, and such compensation as is right for the injury I have sustained by the course which has been adopted.

I have, &c.

(Signed,)

WILLIAM LAMPSON,

By his Agent, J. H. Kerr.

Lt. Colonel Sir C. O'Donnell, Military Secretary.

Montreal, 6th July, 1840.

SIR,

I have the honor to acknowledge the receipt of your letter of the 4th instant, on the subject of the appraisement of certain lands in the vicinity of St. Lewis Gate, Quebec, required by the Government for Military purposes.

It must be evident to you that the nature of your demands for this property requires the utmost care and consideration on the part of Government. With this view the reports of the appraisers and certain other documents were (as I believe I intimated in my letter of the 12th May last,) submitted for legal opinion. These Documents, together with the opinion of the Attorney General thereon, have since been placed in the hands of the superior Board of Respective Officers in this command, and will, it is more than probable, be submitted by them to the Board of Ordnance in England.

I have, &c.

(Signed,)

C. R. O'DONNELL,

Lt. Col. M. S.

To Wm. Lampson, Esq., Quebec.

e my
ation

Kerr.

a the
quir-

s the
f the
12th
f the
spec-
em to

S.